



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Raymond Corporation

File: B-246410

Date: March 2, 1992

Thomas L. Samsel for the protester.

C. Dale Duvall, Department of Veterans Affairs, for the agency.

Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's determination to cancel sealed bid procurement and to acquire equipment listed on a mandatory Federal Supply Schedule is not improper where agency reasonably determines that listed equipment meets its needs.

DECISION

Raymond Corporation protests the cancellation of invitation for bids (IFB) No. 552-53-91, issued by the Department of Veterans Affairs (VA) for an automatic storage and retrieval system and the subsequent procurement of the requirement from White Storage and Retrieval Systems, Inc. using a mandatory Federal Supply Schedule (FSS) contract. Raymond contends it was improper for the agency to cancel the IFB and place an order under the FSS contract because the agency's need is for a small item supply storage and retrieval carousel system and the FSS contract is for an office filing system.

We deny the protest.

Initially, the VA determined that there were no available FSS contracts for a small supply item automated storage and retrieval system to be used at the VA Medical Center in Dayton, Ohio. Consequently, the VA advertised its requirement in the Commerce Business Daily (CBD) and issued the solicitation on August 28, 1991, with a bid opening date of September 27. After the requirement was advertised in the CBD, White advised the VA that the equipment being procured was available on its FSS contract, which was a mandatory source of supply for the VA. The VA evaluated the system offered by White on FSS Group 74, Part IV, Contract

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No. GS-00F-4568A and agreed that White's system would satisfy their needs, and, as a result, the VA canceled the previously issued solicitation on September 20.

The VA then issued a purchase order to White in the amount of \$82,395.02 for the complete system. The purchase order includes the carousel type automated storage and retrieval system consisting of three horizontal carousels, keyboard, CRT, check-out tracking, work station, safety system, color monitor, inventory software, and keyboard for a total of \$68,663.02. Also included in the purchase order were two related non-FSS items, the carousel control unit and installation, testing, and training for a total of \$13,732. Since special software is needed in order for the VA to use its bar code scanner purchased separately for the system, the VA intends to procure under full and open competition the software modification for the White equipment.¹ Raymond's protest is against the cancellation and the issuance of the purchase order to White.

Preliminarily, once the VA determined that White's automatic horizontal carousel satisfied its minimum needs, it was required to cancel the solicitation. Applicable regulations state that before soliciting commercial sources, federal agencies must determine whether the required or similar supplies or services are available under a mandatory FSS contract. If so, the supplies must be acquired from the FSS contractor, except in situations not present here. See Federal Acquisition Regulation (FAR) § 8.404 (FAC 90-7); Schlegel Assocs., Inc., B-217366, Mar. 6, 1985, 85-1 CPD ¶ 279. This is because the General Services Administration negotiates FSS contract prices to provide federal agencies with a simplified process for obtaining commonly used supplies and services at prices associated with volume buying. See FAR § 8.401 (FAC 90-8).

Raymond challenges the VA's determination that White's equipment satisfies its minimum needs. Raymond asserts that the equipment contained in White's FSS contract is structured to provide office filing systems and not small item storage and retrieval systems as required by the solicitation.

While Raymond contends that the equipment available on the FSS contract is intended for a different purpose, the FSS contract is simply entitled "Visible Record Equipment" and does not restrict the use of the equipment. The record shows that the VA reviewed the FSS contract and made a line by line comparison with the specifications contained in the

¹In fact, the VA has solicited and received two quotes, from White and Dove Tree Canyon, for the software modification.

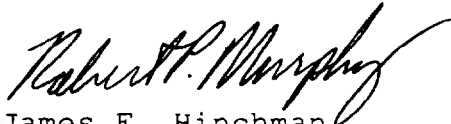
CBD and determined that White's carousel system satisfied its needs. For example, the agency found that the White system's height, weight, capacity, and turning capability meets or exceeds the specifications. A determination as to whether a product on a FSS contract meets a procuring agency's needs is primarily within the discretion of the procuring agency. We will not question that determination unless it is unreasonable. See American Sterilizer Co., B-212933, Jan. 26, 1984, 84-1 CPD ¶ 122. Although Raymond argues that the equipment contained on the FSS contract is intended for a different use than that required by the solicitation, there is nothing in the record to demonstrate that the equipment is restricted to any particular application or that the VA's use of the system which meets its specifications for small item storage and retrieval is unreasonable. We thus have no basis to disturb the agency's determination that the schedule item meets its needs. See Engel, Inc., B-228544, Jan. 7, 1988, 88-1 CPD ¶ 13.

Raymond also argues that the software modifications that are necessary to enable White's equipment to read the government furnished bar codes are significant and since that FSS contract cannot satisfy the agency's needs without substantial modification, the equipment should be competed on the open market.

As previously stated, the VA issued a purchase order for the automatic carousel, the FSS item, and for the carousel control unit and installation, testing, and training, non-FSS items that are worth only 17 percent of the cost of the total system. Since the non-FSS items appear to be incidental and represent an insignificant portion of the total requirement, we find that these non-FSS items were reasonably included in the acquisition. See Synergetics Int'l, Inc., B-213018, Feb. 23, 1984, 84-1 CPD ¶ 232. With respect to the software modifications, the agency estimates the cost of the modifications to be approximately \$20,000 and has sought to procure the modifications through full and open competition. Further, the record shows that any proposed automatic retrieval system would have to be modified in order to read the government furnished bar codes. Here, where the total system consists of both an FSS item and a non-FSS item that can easily be separated from the FSS item, it is not improper for the agency to acquire the FSS item that it reasonably determines satisfies its needs and competitively procure the non-FSS item which represents only 20 percent of the costs of the automatic

storage and retrieval system. See Amray, Inc., 69 Comp. Gen. 456 (1990), 90-1 CPD ¶ 480. We therefore conclude that the agency's decision to separately procure the software modification was proper.

The protest is denied.


for James F. Hinchman
General Counsel